

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,)	
)	
Plaintiff,)	
)	
v.)	C.A. No. 22-1378-MN
)	
MASIMO CORPORATION and)	JURY TRIAL DEMANDED
SOUND UNITED, LLC,)	
)	
Defendants.)	
)	
<hr/>		
MASIMO CORPORATION and)	
CERCACOR LABORATORIES, INC.,)	
)	
Counter-Claimants,)	
)	
v.)	
)	
APPLE INC.,)	
)	
Counter-Defendant.)	

PLAINTIFF APPLE INC.’S MOTION TO

- (1) SEVER MASIMO’S 16 UNRELATED ANTITRUST, FALSE ADVERTISING, AND PATENT INFRINGEMENT COUNTERCLAIMS AND**
- (2) STAY MASIMO’S PATENT INFRINGEMENT COUNTERCLAIMS RELATED TO OTHER INFRINGEMENT COUNTERCLAIMS ALREADY STAYED PURSUANT TO 28 U.S.C. § 1659**

Plaintiff and Counterclaim Defendant Apple Inc. (“Apple”) moves to (1) sever Defendant Masimo Corporation’s (“Masimo”) antitrust, false advertising, and patent infringement counterclaims (i.e., the First through Sixteenth Counts) and (2) stay Masimo’s patent infringement counterclaims related to those the Court has already stayed pursuant to 28 U.S.C. § 1659 (i.e., the Tenth, Twelfth, Fourteenth, Fifteenth, and Sixteenth Counts). In support of the instant motion to sever and stay, Apple submits the following:

- Apple’s Opening Brief in Support of Its Motion to Sever and Stay;

- The Declaration of Jordan N. Malz in Support of Apple's Motion to Sever and Stay, and all exhibits attached thereto (Exhibits 1-4); and
- A proposed order.

Apple respectfully requests that the Court grant this motion as further described in Apple's opening brief.

OF COUNSEL:

John M. Desmarais
Jordan N. Malz
Cosmin Maier
Kerri-Ann Limbeek
DESMARAIS LLP
230 Park Avenue
New York, NY 10169
Tel: 212-351-3400

Peter C. Magic
DESMARAIS LLP
101 California Street
San Francisco, CA 94111
Tel: 415-573-1900

Leon B. Greenfield
Jennifer Milici
Mark A. Ford
Dominic Vote
WILMER CUTLER PICKERING HALE
AND DORR LLP
1875 Pennsylvania Avenue, NW
Washington DC 20006
Tel: (202) 663-6000

Dated: February 3, 2023
10580500 / 12209.00052

Respectfully submitted,

POTTER ANDERSON & CORROON LLP

By: /s/ David E. Moore

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Andrew L. Brown (#6766)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
Tel: (302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com
abrown@potteranderson.com

*Attorneys for Plaintiff/Counter-Defendant
Apple Inc.*